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REMARKS

With entry of the instant amendment, claims 40 - 53 are pending. Claims 1 - 39 were previously canceled as directed to the non-elected invention. Claim 40 has been amended, and claims 49 - 53 are new. New matter has not been introduced by the present amendment.

Minor corrections have been made to claim 40. The abbreviation, ASA, has been defined as ascorbic acid and this abbreviation is used in the body of the claim. Step a) has been amended to recite, "selecting" as opposed to "obtaining".

New claims 49 and 52 are independent claims directed to a method for screening yeast capable of producing ASA. Claim 49 is directed to a three step process which includes selecting yeast capable of growing on ASA as a sole carbon source; growing the selected yeast on 2-keto-L-gulonic acid (KLG) as a sole carbon source; and screening for the production of ASA from the yeast which grow on KLG. Claim 52 is directed to a two-step process, which includes growing yeast from the Imperfect yeast group on 2-keto-L-gulonic acid (KLG) as a sole carbon source and selecting the yeast which produce ASA.

Dependent claims 50 and 53 are directed to a method for the production of ASA or an ASA intermediate comprising culturing the yeast screened according to the method of claims 49 and 52 in the presence of a 6 carbon sugar or 6 carbon sugar acid under conditions suitable for the production of ASA or an ASA intermediate and recovering the ASA or ASA intermediate. Dependent claim 51 is directed to yeast that are members of the Imperfect yeast group. Applicant asserts the new claims are supported by the specification.

Claim objections -

The objection to claim 40 is moot in light of the amendment to the claim.

Rejections under 35 U.S.C. §112, second paragraph -

The Examiner has rejected claim 40 and those claims dependent thereon for use of the phrase "obtaining yeast capable of growing on ASA...". The Examiner has suggested Applicant amend claim 40 to recite "selecting a yeast capable of growing on ASA...". While Applicant believes the term "obtaining" does particularly point out the process of step a), and that one skilled in the art would know how to practice the step, Applicant has amended the claim because it is also believed that use of the term "selecting" does not narrow the scope of step a) or prejudice the meaning of the claim.

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Rejections under 35 U.S.C. §103 -

The Examiner has rejected claims 40 - 47 as being unpatentable over Costamagna et al. and Hoshino et al. The Examiner states at page 3 of the office action that,

"Costamagna et al. teach the screening of yeasts capable of growing on ascorbic acid as sole carbon source. The reference reports the identification of seven strains including the genus of *Cryptococcus* and two species of *Candida* that could use only ascorbic acid for growth. However, the reference does not suggest the use of such strains for vitamin C production.

Hoshino et al., teach the process of producing 2-keto-L-gulonic acid by fermentative conversion of L-sorbose with a high yield using bacteria and yeast. The reference also teaches that KLG is an important intermediate for the production of L-ascorbic acid into which it can be converted and that such information is well known in the art. Therefore, this reference specifically teaches the importance of KLG in ascorbic acid biosynthesis."

Applicant's invention concerns the unexpected discovery that some members of yeast, which are able to grow on ASA as a sole carbon source, are also able to grow on KLG as a sole carbon source and further some of these yeast (but not all) are able to produce ASA. The particular embodiment of the present application relates to a method for screening the yeast which are able to produce ASA. As the examples in the specification illustrate, some species, such as *Candida shahatae* are capable of using KLG as a sole carbon source, but are not able to produce ASA (see Example 3 and Table 1).

Costamagna et al., does disclose that species of *Cryptococcus* and *Candida* were able to grow on ASA, but Costamagna et al. is silent with respect to whether or not these species, or any species, are capable of also growing on KLG as a sole carbon source. Further the reference is silent as to whether or not species capable of growing on KLG as a sole carbon source were able to produce ASA.

With respect to the Hoshino et al. reference, Applicant does not dispute the fact that KLG is an important intermediate for the production of ASA. Moreover, whether or not KLG may be produced by fermentative conversion of L-sorbose or not, is not relevant to the claimed invention. As stated above, the fact that yeast may or may not grow on KLG as a sole carbon source is not an indication that the yeast will produce ASA.

Applicant asserts the cited references whether taken individually or combined do not render the claimed invention unpatentable. There is no teaching or suggestion in the combination of references to a method of screening for yeast which are capable of growing on

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KLG as a sole carbon source and further capable of producing ASA. Applicant respectfully asserts a *prima facie* case of obviousness has not been established.

Applicant requests that all rejections under 35 U.S.C. §§112 and 103 be withdrawn, and further Applicant believes the pending claims are in condition for allowance. An early allowance for claims 40 - 53 is kindly requested.

Respectfully submitted,



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